

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Kathleen M. Miller et al.

Serial No.: 10/789,398

Filed: February 27, 2004

Title: **IMPLANTABLE OR INSERTABLE MEDICAL DEVICE RESISTANT TO MICROBIAL GROWTH AND BIOFILM FORMATION**

Art Unit: 3738

Examiner: Suzette Jaime J. Gherbi

Confirmation No.: 4925

Docket No: 98-P0151US2

VIA EFS-WEB  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**Certificate of Electronic Transmission  
Under 37 C.F.R. §1.8**

I hereby certify that this correspondence and any document referenced herein are being electronically filed with the USPTO via EFS-Web on December 17, 2010.

Nancy Joyce Simmons  
(Printed Name of Person Sending Correspondence)

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(Signature)

**NOTICE OF APPEAL AND PRE-APPEAL BRIEF REQUEST FOR REVIEW**

SIR:

Applicant hereby respectfully appeals to the Board of Patent Appeals and Interferences from the decision of the Primary Examiner dated September 3, 2010, finally rejecting the pending claims in this application. Applicant respectfully petitions under 37 CFR 1.136(a) for a one-month extension of time to respond.

Authorization is hereby provided to charge Deposit Account No. 50-1047 the Appeal Fee under 37 CFR 41.20(b)(1) (\$540) and the fee for a one-month extension of time under 37 CFR 1.17(a)(1) (\$130). It is further requested that the Commissioner charge any additional fees that may be required, or credit any overpayments, to Deposit Account 50-1047.

A Pre-Appeal Brief Request For Review is filed herewith.

Dated: December 17, 2010

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Respectfully submitted,

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